

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6538 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT P.W.D. MAZDOOR PANCHAYAT

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioners
MR SR DIVETIA for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/07/97

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly, in the third round but none put appearance on behalf of the petitioners. Perused the Sp. C.A. and heard the learned counsel for the respondents.
2. Earlier also, on 23rd April, 1997, this matter was listed for hearing, but nobody put appearance on behalf of the petitioners, and as such, the same was adjourned for hearing beyond vacation, but the position still remained the same.

3. The petitioner No.2 was appointed in the initial pay scale of Rs.260/- plus usual admissible allowances in the pay scale of Rs.260-400 for 29 days from the date of his reporting on duty on work-charge basis in Khamhalia Section under Dist. Building & Roads Division, Dwarka. The petitioner No.1 is a Union and this petition has been filed for espousing the cause of five persons named in Annexure 'A'. Those five persons, as per the statement made in Annexure 'A', have entered in the service on 15-7-1976, 22-7-1980, 19-6-1981, 7-4-1983 and 27-8-1983 respectively. The petitioners challenge by this Sp. C.A. the alleged arbitrary intermittent and artificial break given to the employees, the petitioner No.2 and those who are mentioned in annexure 'A', on every 30th day of the month though they are actually working on every 30th day also, but on record, depriving them the wages of 30th day or 31st day, and with a view to deprive them from the benefits available to the permanent employees working in other departments.

4. The petitioners have deliberately made a wrong statement of fact in the Sp. C.A.. The petitioners made an incorrect statement of fact in the Sp. C.A. that all the employees mentioned in annexure 'A' are working for last 5 to 7 years uninterruptedly from the date of appointments of those persons. The majority of these persons are having their services of about one to four years except one person. It is not in dispute that the employees mentioned in annexure 'A' and the petitioner No.2 have been employed as work-charged employees in the Public Works Department (R & B). This Court has passed the order on 31st December, 1984, which reads as under:

Notice returnable on 4th January, 1985.

Ad-interim relief against termination till further orders. Direct service permitted.

The interim relief granted by this Court was ordered to be continued on 8-7-1995. So, all the employees mentioned in annexure 'A' and the petitioner No.2 are working as work-charged employees in (R & B) P.W.D..

5. The averments made in Sp. C.A. have not been controverted and this fact has also not been controverted that these persons are in service in view of the orders passed by this Court, as referred above.

6. The Government has taken a policy decision on the basis of the recommendations made by the Committee constituted by it for laying down the service conditions

of daily wagers, work charged employees in this very department. The policy decision is taken for all class of workers i.e unskilled, semi-skilled and skilled. The employees mentioned in annexure 'A' and the petitioner No.2, now by this time, have the services of more than 15 years to their credit and in view of the resolutions of the Government, their cases have to be considered for their eligibility for confirmation of those benefits. First resolution is of 17th October, 1988, which has been supplemented by the subsequent resolutions. As per that resolution, all work-charged employees who have been appointed earlier to 1-10-1988 were given the benefit of pay in the regular pay scale of the post concerned on completion of five years services. Further benefits have been conferred on the basis of length of service including the pensionary benefits.

7. In view of the subsequent developments which have taken place, I consider it to be appropriate that the interest of justice will be met in case this Sp. C.A. is disposed of in the terms that the respondents shall consider the cases of the employees mentioned in annexure 'A' of this petition and the petitioner No.2 for their eligibility for confirmation of the benefits as provided under the resolution of the Government dated 17th October, 1988, and subsequent resolutions passed from time to time. This exercise shall be undertaken within a period of three months from the date of receipt of certified copy of this order. In case the petitioner No.2 and the employees mentioned in annexure 'A' to this petition are not found eligible and entitled for the benefits under those resolutions then a reasoned order may be passed and copy of the same may be sent to them. The interim relief which has been granted by this Court shall continue till the matter is decided and in case the matter is decided against these persons then the interim relief shall continue for one month more from the date of receipt of the order by these persons. The Special Civil Application and Rule stands disposed of in the aforesaid terms with no order as to costs.